

Exhibit 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

STEVEN B. POLLACK,
et al.,
Plaintiffs,

V.

No. 08-CV-320

UNITED STATES DEPARTMENT
OF JUSTICE

et al.,

Defendants.

DECLARATION OF DONALD C. HENKE

I, Donald C. Henke, affirm and state as follows:

1. I am a Special Agent ("SA") in the Chicago Field Office of the Federal Bureau of Investigation ("FBI"). I became a Special Agent with the FBI in 1985, and was assigned to the New Orleans Field Office from June 1985 to September 1991. I was assigned to the Chicago Field Office in 1991, and since that date I have served as a Special Agent Bomb Technician, a Special Weapons and Tactics ("SWAT") Team Leader and Operator, a Tactical Instructor, and a Firearms Instructor.

2. Since October 2002, I have served as the Principal Firearms Instructor (“PFI”) for the Chicago Field Office at the Regional Training Facility, in North Chicago, Illinois. As the PFI at the Chicago Division Regional Training Facility, my duties include providing firearms and tactical training to FBI Special Agents, other federal law enforcement officers, U.S. military personnel, and state and local law enforcement officers. In my capacity as the PFI at this range, I have supervised over 350 firearms training classes since October 2002. I provide this declaration based upon my personal knowledge and experience, upon information provided to

me in my official capacity, and upon conclusions and determinations reached and made in accordance therewith.

3. On March 31, 2008, the FBI voluntarily stopped live firing training activities at the FBI's Chicago Division Regional Training Facility. This closure was out of an abundance of caution by the FBI to ensure the safety of its trainees, its neighbors, and the general public. The FBI has stopped this activity temporarily in order to assess this safety allegation of bullets escaping the range and going into the park. There are no known instances of bullets ricocheting or tumbling into Foss Park from the FBI range. Foss Park is located to the south of this facility. The south end of the range property includes a mound of dirt that is approximately 10 feet high and sloped on a 45 degree angle. On top of this mound is a solid cedar fence, about ½ inch thick, and approximately 8 feet tall.

4. Any closure of this facility greatly harms the preparedness of federal and local law enforcement. The Chicago Division Regional Training Facility provides the FBI and local law enforcement agencies a firearms range to train large groups of agents or officers on a variety of weapons and tactics. This facility's firing line allows training classes of up to 40 shooters at a time. Because there is no other firearms range similar to this facility in the area, the demand for training on this range exceeds the possible training schedule. To accommodate as many agencies as possible, the range schedules training activities during not only weekly business hours, but also evenings and weekends.

5. The primary method of training at this facility is firearm qualification for FBI Special Agents and local police officers. Qualification courses require law enforcement officials to stand at particular distances to prove their firearm proficiency at each position. FBI qualification courses include the highest standards of proficiency, requiring Special Agents to

shoot from a variety of distances, depending on their assigned service weapon. Additionally, FBI Special Agents often carry a variety of weapons, including pistols, rifles, and submachine guns. Most firearm ranges in the region are not designed for these weapons or qualification distances because their primary activity is hobby firing, not law enforcement training.

6. Any long-term closure of this facility would halt all FBI Chicago Special Agent firearms qualification training. It would also stop qualification training for over 40 state and local law enforcement agencies. Finally, closure of this facility would discontinue firearms training for SWAT, skill building, and transitional weapon training.

7. The training halted by closure of this facility could not be conducted elsewhere. Other ranges in the Chicago region are simply not equipped to provide firearms training at the size, breath, and proficiency required by the FBI and other law enforcement agencies that train at this facility. Training would have to be severely altered to fit the specifications of other ranges, diminishing the effectiveness of the region's law enforcement weapons training – a skill that protects both the officer and the general public.

8. It is difficult to calculate the cost and damages of closing this facility because a similar range does not exist where all of this training could be conducted. Furthermore, the increased danger to the public due to cancelled law enforcement training is incalculable. The public interest in law enforcement firearm proficiency is immense because agents and officers must be able to protect themselves and others in order to accomplish their daily mission. Altering this training in any way harms this mission and places law enforcement and the community at a greater risk of harm.

9. However, if training was limited and altered to fit only the critically needed

qualification of the FBI Chicago Special Agents, the cost of this limited training would be approximately \$4,000 a week – however, local ranges with these fees do not currently have open range time to allow the FBI to train. This calculation does not include other training classes held at the range and is derived from the following considerations:

Monday – Friday

Training 8 hours a day
Average of 20 shooters
Approx. \$75/hour for range fee
Approx. \$10/person for travel
Total = \$4,000

10. There are other incalculable harms and costs to the closure of this facility. Because of the demand for training at this facility, the range schedule has been set six months to a year in advance. Weather considerations in the Chicago region cause spring and summer months to be the range's busiest time of year and many training requests during these months are denied. Closure of this facility will further flood the market for range time, making it highly unlikely that ranges in the region could provide the FBI with range access seven days a week, for eight to 12 hours a day. This may cause the FBI to train at several range locations, increasing travel time and costs, or to pay premium range fees much higher than current industry averages. Additional travel time takes FBI Special Agents away from their investigative case work, harming on-going criminal and terrorism investigations. Additionally, the FBI Chicago Field Office does not have a line-item in its budget to pay for any of these additional expenses. For these reasons, the harm and cost of closing this facility includes not only additional range and travel fees, but the safety and security of FBI agents, local police, and the general public.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the facts set forth in this Declaration are true and correct to the best of my knowledge, information

and belief.

Executed this ____ day of March, 2008.

Donald C. Henke
Special Agent
Federal Bureau of Investigation
Chicago, Illinois